

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

RONALD OSBORN,)
)
Plaintiff,)
v.) No. 1:08-cv-916-WTL-DML
)
COUNSELOR PHILLIP ZELLERS,)
)
Defendant.)

Entry and Notice

The materials filed by the plaintiff on April 7, 2010, in opposition to defendant Zellers' motion for summary judgment are of **no effect**. The reasons for this determination are the following:

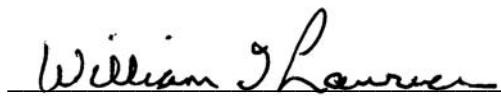
1. The materials were filed beyond the April 1, 2010, deadline for the plaintiff to respond to the motion for summary judgment. The court cannot maintain the reasonable management of its docket if deadlines are ignored. *Spears v. City of Indianapolis*, 74 F.3d 153, 157 (7th Cir. 1996); see also *Reales v. Consolidated Rail Corp.*, 84 F.3d 993, 996 (7th Cir. 1996)("[Courts] are entitled-indeed they must-enforce deadlines. Necessarily, they have substantial discretion as they manage their dockets."). An untimely filing which has not been belatedly authorized is of no effect, *Gonzalez v. Ingersoll Milling Machine Company*, 133 F.3d 1025, 1030 (7th Cir. 1998); *Lac Du Flambeau Band of Lake Superior Chippewa Indians v. Stop Treaty Abuse-Wisconsin, Inc.*, 991 F.2d 1249, 1257 (7th Cir. 1993)("[A] decision to disregard all materials submitted after a reasonable filing deadline is certainly not an abuse of discretion because it allows the district court to preserve the moving party's right to respond to the resisting party's argument and to decide the summary judgment motion in a timely fashion.")(citation omitted).

2. Although the plaintiff's filings of April 7, 2010, acknowledge the motion for summary judgment, the materials are incomplete because they do not include a *statement of material facts in dispute* as required by Local Rule 56.1(b). The *statement of material facts in dispute* required by Local Rule 56.1(b) is to identify the potentially determinative facts and factual disputes which the plaintiff contends demonstrate that there is a dispute of fact precluding summary judgment. The statement provided by the plaintiff is not supported by specific reference to evidentiary materials and is riddled with argument and case citations. The failure to submit the required *statement of material facts in dispute*

concedes the defendant's version of the facts to the extent they are supported by admissible evidence. This is the consequence of Local Rule 56.1(e). See, e.g., *Schmidt v. Eagle Waste Recycling, Inc.*, 2010 WL 1006922 (7th Cir. March 22, 2010); *Smith v. Lamz*, 321 F.3d 680, 683 (7th Cir. 2003) (holding that "a failure to respond by the nonmovant as mandated by the local rules results in an admission"); *Greer v. Bd. of Educ., of the City of Chicago*, 267 F.3d 723, 727 (7th Cir. 2001); *Members v. Paige*, 140 F.3d 699, 702 (7th Cir. 1998)(stating that procedural rules "apply to uncounseled litigants and must be enforced"). Thus, even if these materials had been received prior to the deadline, or had been received prior to the ruling on the motion for summary judgment, or even if considered now in some substantive fashion, the court's ruling would be no different.

IT IS SO ORDERED.

Date: 04/09/2010



Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana

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